



South Carolina Department of Health  
and Environmental Control

## **NPDES GENERAL PERMIT**

**FOR**

**“NO-DISCHARGE”**

### **CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOs)**

This general permit authorizes operation of “no-discharge” concentrated animal feeding operations in accordance with discharge restrictions, operating requirements, monitoring requirements, and other conditions set forth herein. This general permit is issued in accordance with the provisions of the Pollution Control Act (S. C. Code Sections 48-1-10 *et seq.*, 1976) and with the provisions of the Federal Clean Water Act (PL 92-500), as amended, 33 U.S.C. 1251 *et seq.*, the "CWA." A copy of this permit must be kept by the permittee at the site of the permitted activity.

**Marion F. Sadler, Jr.**

**Director, Industrial, Agricultural, and Storm Water Permitting Division  
Bureau of Water**

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## TABLE OF CONTENTS

<b>PREFACE</b> .....	4
<b>Part I. PERMIT AREA AND COVERAGE UNDER THIS GENERAL PERMIT</b> .....	4
A. Permit Area .....	4
B. Permit Coverage .....	4
C. Eligibility for Coverage .....	4
D. Limitations on Coverage .....	4
E. Revocation of Coverage .....	4-5
F. Termination of Coverage .....	5
G. Requiring an Individual Permit or Alternate General Permit.....	6-7
H. Permit Expiration and Continuation of the Expired Permit .....	7
<b>Part II. APPLICATION REQUIREMENTS FOR COVERAGE</b> .....	7
A. Application for Coverage .....	7-9
B. Where to Submit .....	9
C. Renotification .....	9
D. Transfer of Ownership or Control .....	9-10
<b>Part III. EFFLUENT LIMITATIONS AND STANDARDS</b> .....	10
A. Effluent Limitations and Standards .....	10-11
B. Additional Measures – Applicable to the Production Area .....	11
C. Discharge Prohibition.....	11-12
D. Other Legal Requirements .....	12
<b>Part IV. SPECIAL CONDITIONS</b> .....	12
A. Nutrient Management Plan .....	12-14
B. NPDES Permit for CAFOs Minimum Practices .....	14-17
C. Additional Standards to Protect Water Quality .....	17
D. Facility Closure .....	17-19
E. Requirements for the Transfer of Manure, Litter, and Process Wastewater to Other Persons.....	19
F. Requirements for the Land Application Activities Not Under the Control of the Permitted CAFO Owner .....	19-20
G. Additional Special Conditions.....	20
<b>Part V. MONITORING, INSPECTION AND NOTIFICATION REQUIREMENTS</b> .....	20
A. Facilities Required to Monitor.....	20-21
B. Notification of Discharges Resulting from Manure, Litter, and Process Wastewater Storage, Handling, On-site Transport and Application .....	21-22
C. Monitoring Requirements for All Discharges from Retention Structures .....	22
D. General Inspection, Monitoring and Record Keeping Requirements.....	23-27
E. Additional Monitoring Requirements.....	27-28

<b>Part VI. ANNUAL REPORTING REQUIREMENTS</b>	28
<b>Part VII. STANDARD PERMIT CONDITIONS</b>	28
A. General Conditions	28-30
B. Proper Operation and Maintenance	30-31
C. Inspection and Entry	31
D. Monitoring and Records	31-32
E. Reporting Requirements	32-35
F. Signatory Requirement	35-36
G. Certification	36
H. Bypass	36-37
I. Upset	37-38
J. Availability of Reports	38
K. Penalties for Violations of Permit Conditions	38-39
<b>Part VIII. DEFINITIONS</b>	39-48
<b>ADDENDUM A – Form 2B/Notice of Intent</b>	49
<b>ADDENDUM B – Notice of Termination Form</b>	50
<b>ADDENDUM C – State Technical Standards for Nutrient Management</b>	51

## **PREFACE**

The South Carolina Pollution Control Act and the Federal Clean Water Act provide that discharges from a point source to waters of the State are unlawful, unless authorized by a National Pollutant Discharge Elimination System (NPDES) permit. This NPDES permit prohibits point source discharges from CAFOs to waters of the State.

## **Part I. PERMIT AREA AND COVERAGE UNDER THIS GENERAL PERMIT**

**A. Permit Area.** The permit covers all areas of South Carolina.

**B. Permit Coverage.**

1. An NPDES permit is required for: any concentrated animal feeding operation (CAFO) as defined in SC Regulation 61-9; and any animal feeding operation (AFO) designated by the Department as a CAFO under the requirements of 40 CFR Section 122.23(b)(4) and 122.23(b)(6) of SC Regulation 61-9. The definition of a CAFO is also in Part VIII (Definitions) of this general permit.
2. This CAFO NPDES general permit covers the confinement, storage, and handling areas, as well as the land application activities under the control of the permitted CAFO owner.

**C. Eligibility for Coverage.**

Unless excluded from coverage in accordance with Paragraph D (Limitations on Coverage) or G (Requiring an Individual Permit or Alternate General Permit) below, owners/operators of existing, currently operating, and future animal feeding operations that are defined or designated by the Department as CAFOs under SC Regulation 61-9 are eligible for coverage under this permit. Eligible CAFOs are authorized, under the terms and conditions of this permit, and upon the submission of a notice of intent to gain coverage under this NPDES general permit. Owners/operators may also seek to be excluded from coverage under this permit by (1) submitting to the Department (see Part I.F.) a notice of termination form (see Addendum B); (2) by applying for an individual NPDES Permit in accordance with Part I.G.; or (3) for Large CAFOs request a no potential to discharge determination from the Department as provided in 40 CFR 122.23(f).

**D. Limitations on Coverage.**

The following CAFOs are **not** eligible for coverage under this general permit, but must apply for an individual permit:

1. CAFOs that have been notified by the Department to apply for an individual NPDES permit in accordance with Part I.G.2 of this general permit.
2. CAFOs whose owners/operators have a history of significant noncompliance problems with any environmental permit during the 10-year period prior to either submission of their application for a State Agricultural Permit or their designation as a CAFO by the Department.

**E. Revocation of Coverage**

1. If there is evidence indicating potential or realized impacts on water quality due to any discharge, the owner responsible for such discharge may be required to obtain an individual permit or an alternative general permit in accordance with Part I.G. (Requiring an Individual Permit or Alternate General Permit) of this general permit or the permit may be modified to include different limitations and/or requirements.
2. Permit modification or revocation will be conducted according to the SC Pollution Control Act and SC Regulation 61-9.

**F. Termination of Coverage**

1. When all operations associated with concentrated animal feeding operation activities that are authorized by this general permit are eliminated, the owner of the facility must submit a Notice of Termination that is signed in accordance with Part VII.F. (Signatory Requirements) of this general permit. The Notice of Termination shall include the following information:
  - a) Name, mailing address, and location of the facility for which the notification is submitted. Where a mailing address for the site is not available, the location can be described in terms of the latitude and longitude of the facility to the nearest 15 seconds;
  - b) The NPDES general permit coverage number for the activities associated with concentrated animal feeding operations identified by the Notice of Termination; and
  - c) The following certification signed in accordance with Part VII.F (Signatory Requirements) of this general permit:

“I certify under penalty of law that all activities associated with concentrated animal feeding operations from the identified facility that are authorized by an NPDES general permit have been eliminated. I understand that by submitting this notice of termination, that I am no longer authorized to operate manure handling associated with concentrated animal feeding operations under this general permit, and that activities associated with concentrated animal feeding operations are unlawful under the Clean Water Act where the operation is not authorized by an NPDES permit.”
2. Notices of Termination must be sent, using the form provided by the Department (or a photocopy thereof), to the following address:

Agricultural & Stormwater Permitting Section/CAFO NOT  
SC Department of Health and Environmental Control  
2600 Bull Street  
Columbia, SC 29201

**G. Requiring an Individual Permit or Alternate General Permit.**

1. The Department may require any facility authorized by this general permit to apply for, and obtain either an individual NPDES permit or, if available, an alternative NPDES general permit. Any interested person may petition the Department to take action under this paragraph. The Department may require any person authorized to operate under this general permit to apply for an individual NPDES permit only if the person has been notified in writing that a permit application is required. The notice shall include:

- a) A brief statement of the reasons for this decision;
- b) EPA NPDES Forms 1 and 2B with any State supplements, and, if applicable, the applications and forms for a State Agricultural Permit;
- c) A statement on whether or not an updated Animal Facility Management Plan meeting the requirements of this general permit must be submitted, approved, and implemented in accordance with SC Regulation 61-43;
- d) A statement setting a deadline for the owner to file the application; and
- e) A statement that on the effective date of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate.

If only the EPA forms with any State supplements are required to be submitted, the deadline for submission of the application will be 30 days from the date of the notification. If the application must include an updated Animal Facility Management Plan, the deadline for submission of the application will be 180 days from the date of the notification letter unless another time period is specified in a Department enforcement action. Upon written request of the applicant including proper justification, the Department may grant additional time to submit the application when in the judgment of the Department an extension is warranted. Individual permit applications shall be submitted to the address shown in Part II.B (Where to Submit) of this general permit. If an owner fails to submit an individual NPDES permit application as required by the Department in a timely manner, the applicability of this general permit to the individual NPDES permittee is automatically terminated at the end of the day specified for application submittal.

- 2. Any permittee covered under this general permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The owner/operator shall submit an application for an individual permit (using EPA NPDES Forms 1 and 2B with any State supplements) with the reasons supporting the request to the Department no later than 90 days after publication of the general permit in the State Register. If a final, individual NPDES permit is issued to a owner/operator otherwise subject to this general permit, the applicability of this CAFO NPDES general permit to the facility is automatically terminated on the effective date of the individual NPDES permit. Otherwise, the applicability of this general permit to the facility remains in full force and effect (for example, if an individual NPDES permit is denied to an owner/operator otherwise subject to this general permit).
- 3. When an individual NPDES permit is issued to a person otherwise subject to this general permit or the permittee is authorized for coverage under an alternative NPDES general permit, the applicability of this general permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to a permittee otherwise subject to this general permit or the permittee is denied for coverage under an alternative NPDES general permit, the applicability of this general permit to the individual NPDES permittee is automatically terminated on the effective date of such denial, unless another date is specified by the Department. Under these situations, if a facility continues to operate the owner of the facility is in violation of the SC Pollution Control Act and the federal Clean Water Act for being in operation without a permit. Additionally, any discharge of any volume of manure from

the facility is a violation of the SC Pollution Control Act and the federal Clean Water Act for having a point source discharge without an NPDES permit.

4. The Department may deny coverage under this general permit and require submittal of an application for an individual NPDES permit based on a review of the application for a State Agricultural Permit or other relevant information.

#### **H. Permit Expiration and Continuation of the Expired Permit.**

This permit will expire 5 years from the effective date. The permittee must re-apply for permit coverage 180 days prior to the expiration of this permit. The permittee must complete Form 2B and submit to the Department unless the Department specifies otherwise in the general permit. If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the SC Administrative Procedures Act and remain in force and effect. All CAFOs with coverage under the expired permit will continue to operate under the conditions of the expired permit until the effective date of a new permit. However, if the Department denies reissuance of this general permit, general permit coverage for all facilities under this general permit will terminate on the effective date of the denial. Any permittee who is granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

1. Reissuance or replacement of this permit, at which time you must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or
2. Issuance of an individual permit for your discharges; or
3. A formal decision by the Department not to reissue this general permit, at which time you must seek coverage under an alternative general permit or an individual permit.
4. The Department grants the permittee's request for termination of permit coverage.

### **Part II. APPLICATION REQUIREMENTS**

#### **A. Application for Coverage.**

1. New Facilities. Before owners of new CAFOs who are eligible for general permit coverage can begin operation, they must obtain a State Agricultural Permit and approval to operate under the procedures and requirements of SC Regulation 61-43. Additionally, the Animal Facility Management Plan must meet all the requirements of this general permit. The issuance of the State Agricultural Permit will authorize coverage under this general permit. The letter from the Department transmitting the State Agricultural Permit will contain the authorization of coverage under this general permit and the facility's NPDES general permit coverage number. A copy of the general permit will be sent with the State Agricultural Permit.
2. Expanding Facilities.
  - a) Owners of expanding CAFOs who are eligible for general permit coverage must obtain a new State Agricultural Permit that meets all the requirements of this general permit before the expansion will be allowed. An approval to operate must be granted by the Department under the procedures and requirements of SC Regulation 61-43 before the expansion can be operated.

- b) Owners of expanding AFOs that will become CAFOs (by definition or designation due to the expansion) and who are eligible for general permit coverage must obtain a new State Agricultural Permit that meets all the requirements of this general permit before the expansion will be allowed. Additionally, an approval to operate must be granted by the Department under the procedures and requirements of SC Regulation 61-43 before the expansion can be operated. The issuance of the State Agricultural Permit for the expansion will authorize coverage under this general permit. The letter from the Department transmitting the State Agricultural Permit will contain the authorization of coverage under this general permit and the facility's NPDES general permit coverage number. A copy of the general permit will be sent with the State Agricultural Permit.
- 3. Existing Non-Expanding Facilities with a State Agricultural Permit issued on or after June 26, 1998. Owners of existing facilities that are not expanding and who initiated operations under a State Agricultural Permit that was issued *on or after* June 26, 1998 which the Department determines are CAFOs either by definition or designation are not required to submit an application for a State Agricultural Permit to obtain coverage under this general permit. Rather, the Department will provide written notification to the owner of the CAFO that coverage under this general permit has been authorized on the basis of the facility being defined or designated as a CAFO. However, if an update of the Animal Facility Management Plan is necessary for the owner to comply with this general permit, the Department will require an update to the Animal Facility Management Plan. The updated Animal Facility Management Plan must be submitted within 180 days of the written authorization of general permit coverage. This plan must be approved by the Department. Except for the "Additional Standards to Protect Water Quality" given in Part IV.C. of this general permit which must be implemented immediately upon notification of coverage under this general permit, the updated Animal Facility Management Plan must be implemented within 360 days of the written authorization of general permit coverage.
  - 4. Existing Non-Expanding Facilities with a State Agricultural Permit issued before June 26, 1998. Owners of existing facilities that are not expanding and who initiated operations under a State Agricultural Permit issued *before* June 26, 1998 which the Department determines are CAFOs either by definition or designation are required to submit an application for a new permit pursuant to Regulation 61-43. However, an application is not required for a facility if an updated Animal Facility Management Plan was permitted after June 26, 1998 and the updated plan complies with all requirements of this general permit. The Department will provide written notification to the owner of the CAFO that coverage under this general permit has been authorized on the basis of the facility being defined or designated a CAFO. When required, the owner of the existing CAFO must update their Animal Facility Management Plan to meet the requirements of this general permit and the applicable technical requirements of SC Regulation 61-43. The updated Animal Facility Management Plan must be submitted within 180 days of the written authorization of general permit coverage. This plan must be approved by the Department. Except for the "Additional Standards to Protect Water Quality" given in Part IV.C of this general permit which must be implemented immediately upon notification of coverage under this general permit, the updated Animal Facility Management Plan must be implemented within 360 days of the written authorization of general permit coverage.

**B. Where to Submit.**

All applications must be submitted to the following address:



Agricultural & Stormwater Permitting Section  
SC Department of Health and Environmental Control  
2600 Bull Street  
Columbia, SC 29201

**C. Renotification.**

Upon reissuance of this general permit, permittees are required to notify the Department of their intent to be covered by the reissued general permit unless the reissued permit says otherwise.

**D. Transfer of Ownership or Control.**

1. Coverage under this general permit may be transferred to another person after Department approval if all of the following conditions are met at least 30 days prior to the proposed date of transfer:
  - a) The permittee notifies the Department in writing of the proposed transfer;
  - b) A signed written agreement between the existing and new permittee is submitted to the Department. This agreement must contain a specific date for the transfer of permit responsibility, coverage, and liability for violations up to that date and thereafter; and
  - c) The new owner submits an EPA Form 1 to the Department.
2. Requests for transfers of general permit coverage must be sent to the following address:

NPDES Permit Administration  
Bureau of Water  
SC Department of Health and Environmental Control  
2600 Bull Street  
Columbia, SC 29201

3. Transfers are not effective if, within 30 days of receipt of the proposal, the Department disagrees and notifies the current permittee and the new permittee of the intent to terminate coverage under the permit and to require that a new application be filed by the new owner.

**Part III. EFFLUENT LIMITATIONS AND STANDARDS**

**A. Effluent Limitations.**

The following effluent limitations apply to facilities covered under this permit:

1. Point source discharges from any portion of CAFOs including land application areas are prohibited (also see Part III.C.). There can be no discharge of pollutants from CAFOs to waters of the state.
2. Technology-based Effluent Limitations and Standards - Land Application Areas Under the Control of the CAFO Owner/Operator. CAFOs subject to this permit, that land apply manure, litter, or process wastewater, must develop and implement a Nutrient Management Plan in accordance with the requirements specified below and in Parts IV.A and IV.B of this permit. The nutrient management plan that is developed and implemented must incorporate the following requirements based on a field-specific assessment of the potential for nitrogen and phosphorus transport from the

field and that addresses the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters.

- a) Determination of application rates. Application rates for manure, litter, or process wastewater are to be developed that minimize phosphorus and nitrogen transport from the field to surface waters in compliance with the technical standards for nutrient management established by the Department - This technical standard specifies (1) the field-specific assessment of the potential for nitrogen and phosphorus transport from the field to surface waters and addresses the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals and (2) includes appropriate flexibilities for the implementation of specific nutrient management practices to comply with the standard;
- b) Manure and soil sampling. Manure must be analyzed at least once annually for nitrogen and phosphorus content, and soil must be analyzed at least once every five years for phosphorus content. The results of these analyses are to be used in determining application rates for manure, litter, and other process wastewater;
- c) Inspection of land application equipment for leaks. Periodically inspect equipment used for land application of manure, litter, or process wastewater for leaks;
- d) Land application setback requirements. No application of manure, litter, or process wastewater closer than 100 feet to any down-gradient water of the United States, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to waters of the state. The permittee may elect to use a 35-foot vegetated buffer to any down-gradient water of the United States, open tile intake structures, sinkholes, agricultural well heads, or other conduits to waters of the state where applications of manure, litter, or process wastewater are prohibited, may be utilized as an alternative to the 100-foot setback to meet this requirement.
- e) The maintenance of complete on-site records including the site-specific nutrient management plan documenting implementation of all required land application practices.

#### **B. Additional Measures - Applicable to the Production Area**

In addition to the requirements in Part III.A of this permit, the permittee must implement the following additional measures:

- 1. Weekly visual inspections of all storm water diversion devices, runoff diversion structures, and devices channeling contaminated storm water to the wastewater and manure storage and containment structure.
- 2. Daily visual inspections of all water lines, including drinking water or cooling water lines.
- 3. Weekly inspections of the manure, litter, and process wastewater impoundments noting the level as indicated by an installed depth marker in all open surface liquid impoundments. Each depth marker must clearly indicate the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event for the location of the permitted CAFO.
- 4. Timely correction of any deficiencies that are identified in daily and weekly inspections.

5. No disposal of animal mortalities in any liquid manure or process wastewater systems. Handle animal mortalities so as to prevent discharge of pollutants to surface water.
6. The maintenance of complete on-site records documenting implementation of all required additional measures for a period of 5 years.

**C. Discharge Prohibition**

1. Even though the federal effluent limitation guidelines for feedlots contained in 40 CFR Subchapter N Part 412 allow discharges from CAFOs under certain circumstances, this general permit **does not authorize discharges** of manure to waters of the State under any conditions from any portion of a CAFO including land application areas.
2. Except for normal stormwater runoff from manure land application sites where agronomic application rates are used and the land application requirements of the approved Animal Facility Management Plan have been followed, CAFOs shall not discharge manure from the feedlot(s) or other confinement area(s), manure storage or handling areas, land application areas, lagoons, or storage ponds to waters of the State under any circumstances. Any discharge of manure from any portion of the facility shall be a violation of this general permit and is subject to Criminal and Civil penalties of the SC Pollution Control Act except when the violations are excused under Section 48-1-300 of the SC Pollution Control Act.
3. There shall be no discharge of manure pollutants from control structures, such as lagoons or storage ponds, to groundwater except for the allowed leakage rate for lagoons and storage ponds. See Part VI.J (Liner Requirement) for the specific discharge rate (leakage rate) allowed.
4. Stormwater discharges from land application areas are not point source discharges regulated by the NPDES Permit Program when manure has been properly land applied at the agronomic application rate for a viable crop in accordance with:
  - a) The facility's applicable State Agricultural Permit;
  - b) The applicable requirements of SC Regulation 61-43;
  - c) The requirements of this general permit; and
  - d) Proper agricultural practices.

These agricultural stormwater discharges are exempted from the NPDES Permit Program under the definition of a point source discharge contained in Section 502(14) of the Federal Clean Water Act. Therefore, stormwater discharges from land application areas under the conditions listed in this paragraph are exempt from the prohibition on a surface water discharge contained in this general permit. However, if these stormwater discharges cause water quality violations, the Department may require installation of BMPs or other measures to address the violation. These requirements will be implemented either by an enforcement order issued to the CAFO owner for a violation of State water quality standards as given in SC Regulation 61-68 or on a voluntary basis by the CAFO owner under the Department's Non-Point Source Pollution Prevention Program.

**D. Other Legal Requirements.**

1. A CAFO that initiated operations under a State Agricultural Permit that was issued on or after June 26, 1998 must meet all applicable requirements of SC Regulation 61-43 in addition to the requirements of this general permit.
2. A CAFO that initiated operations under a State Agricultural Permit that was issued before June 26, 1998 must meet all the applicable technical requirements of SC Regulation 61-43 in addition to the requirements of this general permit.
3. No condition of this permit shall release the permittee from any responsibility or requirements under other statutes or regulations, Federal, State/Indian Tribe or Local.

#### **Part IV. SPECIAL CONDITIONS**

##### **A. Nutrient Management Plan.**

1. The permittee shall develop and implement a Nutrient Management Plan (NMP). The permittee must update the NMP, as required, and maintain an existing plan to ensure compliance with this general permit at all times. Any update of the NMP must be submitted to the Department for approval in accordance with Part II.A (Application for Coverage) of this general permit. The NMP shall include the following elements as appropriate to the needs and circumstances of the permitted facility: animal inputs, animal outputs, manure handling, treatment, and storage; dead animal disposal; land application of manure; site management; record keeping; and other manure utilization options. The plan must include an evaluation of all potential sources of discharges which may include: waste materials; storage areas; transfer, process, and material handling areas; loading and unloading operations; site runoff; and manure and sludge use or disposal areas. The NMP shall be developed in accordance with good engineering practices, SC Regulation 61-43, NRCS Standards, and NRCS's publication entitled, "Comprehensive Nutrient Management Planning/Technical Guidance," dated December 1, 2000. The NMP shall be documented in narrative form, and shall include any necessary plans, specifications, procedures, calculations, drawings, or maps.
2. The site-specific NMP at a minimum must include practices and procedures necessary to implement the applicable effluent limitations and standards. In addition, the NMP must, as applicable:
  - a) ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;
  - b) ensure proper management of mortalities (i.e. dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;
  - c) ensure that clean water is diverted, as appropriate, from the production area;
  - d) prevent direct contact of confined animals with waters of the State;
  - e) ensure that chemicals and other contaminants handled on-site, are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other chemicals;
  - f) identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters to waters

of the State.

- g) identify protocols for appropriate testing of manure, litter, process wastewater, and soil;
  - h) establish protocols to land apply manure, litter or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater; and
  - i) identify specific records that will be maintained to document the implementation and management of the minimum elements described above.
3. When no NMP has been required in a State Agricultural Permit previously issued to the CAFO, the NMP shall be developed and submitted to the Department for approval no later than 180 days after the effective date of coverage under this general permit. Except for the “Additional Standards to Protect Water Quality” given in Part IV.C. of this general permit which must be implemented immediately upon notification of coverage under this general permit, the NMP shall be implemented no later than 360 days after the effective date of coverage under this general permit. When a NMP has been required and implemented under a previous State Agricultural Permit issued to the CAFO, appropriate changes to the plan shall be developed and implemented before facility changes are put into operation.
  4. The NMP shall be signed by the owner or other signatory authority in accordance with Part VII.F (Signatory Requirement).
  5. The Department or authorized representative may notify the permittee, at any time, that the NMP does not meet one or more of the requirements of this part. The permittee shall make changes to the NMP and submit the amended NMP within 90 days after such notification unless otherwise provided by the Department. The amended NMP must be implemented within 180 days of the notification requiring the amended NMP.
  6. The NMP must be developed or modified by a licensed engineer or a qualified representative of the Natural Resources Conservation Service. The engineer or NRCS representative must also sign the NMP.
  7. The NMP shall be maintained at the site and shall be available for inspection by the U.S. EPA and Department personnel.
  8. The permittee must amend the NMP whenever: (1) the facility makes a substantive change in how it manages its operations, including increasing the number of animals or the manure generated, the location, method, timing, or frequency of land application; or (2) a discharge occurs in violation of this general permit. NMP amendments must be submitted to the Department for review and approval prior to the implementation of the amendment.
  9. The facility owner must also complete and submit to the Department an annual certification that the NMP has been reviewed to assess its adequacy in protecting water quality. This certification must be included in the annual Comprehensive Environmental Compliance Assessment Report required in Part V.D.3. of this general permit.

**B. NPDES Permit for CAFOs Minimum Practices.**

This general permit identifies minimum standards that the permittee must meet to prevent pollutants from manure from entering the waters of the State. All of these minimum standards must be incorporated into the NMP developed and implemented for the permitted facility. The NMP must be approved by the Department pursuant to SC Regulation 61-43. All the minimum standards must be implemented on the date of authorization of coverage. The minimum standards are:

1. **Ensure Adequate Storage<sup>1</sup> Capacity.** Develop and implement specific practices and associated structures to ensure adequate storage capacity to achieve permit limitations including:
  - a) Maintain sufficient capacity in liquid manure, wastewater, or storm water storage structures to ensure compliance with all permit requirements. Maintain sufficient freeboard in liquid manure treatment or storage structures to ensure compliance with the permit conditions as specified in the facility's approved Animal Facility Management Plan. Each liquid manure treatment or storage structure must have a marker that indicates the maximum operating level with a scale in feet and inch increments that shows the depths above and below the maximum operating level.
  - b) Store dry manure in production buildings or in storage facilities or otherwise storing it in such a way as to prevent polluted runoff (e.g., properly covered with water proof tarps and/or surrounded by a berm or buffer).
  - c) Provide adequate storage capacity to ensure compliance with the nutrient management technical standard approved by the Department. Provide adequate storage capacity so that land application occurs only during periods when land and weather conditions are suitable for manure application in accordance with SC Regulation 61-43.
  - d) Ensure proper operation and maintenance of all manure, wastewater, and storm water storage facilities.
- <sup>1</sup>Storage includes but is not limited to waste ponds and lagoons and other structures such as tanks (above and below ground) and staking facilities (concrete pad, walls, and a roof).
2. **Ensure Proper Management of Animal Mortalities.** Handle and dispose of dead animals in a manner that prevents contamination of waters of the State and groundwater. Handling and disposal of dead animals must be in accordance with the requirements of SC Regulation 61-43 and the facility's applicable State Agricultural Permit.
3. **Diversion of Clean Water.** Design and implement management practices to divert clean water and floodwaters from contact with feedlots, holding pens, or confinement areas; manure; or manure storage systems. Clean water includes rainfall from roof drains, runoff from adjacent land, or other sources. If clean water is not diverted from coming into contact with manure or process wastewater it must be collected in accordance with permit requirements.
4. **Prevention of Direct Contact of Animals with Waters of the State.** Develop and implement appropriate controls to prevent direct access of animals in confinement to waters of the State in order to protect water quality.
5. **Chemical Handling.** Develop and implement appropriate controls to prevent introduction of chemicals into manure, wastewater and storm water storage and handling system. Examples include

pesticides, hazardous and toxic chemicals, petroleum products/by-products, medical products, and medical wastes. In accordance with this general permit, the addition of chemicals to manure treatment or storage systems must be approved by the Department before the chemicals can be added to the manure treatment or storage system. When approved by the Department, the use of chemicals in manure treatment or storage systems is not chemical disposal.

6. **Proper Operation and Maintenance.** Implement an operation and maintenance program that involves periodic visual inspection and maintenance of all manure handling, storage, and treatment structures and equipment and all runoff management devices. Inspections shall be conducted in accordance with Part VII.C (Inspection Requirements) of this general permit. All manure application equipment must be tested and calibrated as specified in SC Regulation 61-43 to ensure proper application rates.
7. **Conservation Practices to Control Nutrient Loss.** For land application areas under the control of the CAFO operator develop and implement practices that are sufficient to minimize the discharge of pollutants to waters of the state. These practices may include, but are not limited to residue management, conservation crop rotation, grassed waterways, strip cropping, vegetated buffers, riparian buffers, setbacks, terracing, and diversions.
8. **Protocols for Manure and Soil Testing.** Identify and implement specific manure, wastewater and soil sample collection and analysis protocols to be used in developing and implementing the nutrient management plan. At a minimum the protocol is to specify the collection and analysis of manure, litter, and other process waste waters annually for nutrient content, including nitrogen and phosphorus. The protocol is to specify the collection and analysis of soil samples for phosphorus content at least once every 5 years for all fields under the control of the CAFO operator where manure and wastewater may be applied. In all cases the sampling frequency for both manure, litter and wastewater and soil is to be consistent with the technical standard for nutrient management established by the Department.
  - a) Maintain a log that documents visual inspections, findings, and preventative maintenance activities.
  - b) Document the date, application rate, location, type of crops grown, and methods of application of manure as well as other nutrients to land under the control of the CAFO owner in accordance with the requirements of SC Regulation 61-43 and the facility's applicable State Agricultural Permit.
  - c) Where manure is not applied on land under the control of the CAFO owner, provide the recipient of the manure with the most current analysis and maintain a record of the transfer of the manure off-site in accordance with the requirements of this general permit, SC Regulation 61-43, and the facility's applicable State Agricultural Permit.
  - d) Record the results of annual manure sampling to determine the nutrient content in accordance with the requirements of SC Regulation 61-43 and the facility's applicable State Agricultural Permit.
  - e) Record the results of representative soil sampling and analyses conducted each year to determine nutrient content in accordance with the requirements of SC Regulation 61-43 and the facility's applicable State Agricultural Permit.

**9. Protocols for the Land Application of Manure and Process Wastewater.**

- a) Develop and implement protocols to apply manure, litter and process wastewater in accordance with the technical standard for nutrient management established by the Department.
- b) Land apply manure in accordance with land application rates developed on a site-specific basis as needed to protect water quality and as specified in the facility's applicable Animal Facility Management Plan. At a minimum, land application rates should (1) prevent application of nutrients at rates that will exceed the capacity of the soil and the planned crops to assimilate nutrients and minimize water pollution; and (2) be quantified and based on the most limiting nutrient in the soil (e.g., phosphorus or nitrogen), type of crop, realistic crop yields, soil type, and all nutrient inputs in addition to those from manure. Additionally, manure cannot be applied to land where the agronomic application rate will be or has been exceeded due to the use of fertilizer alone or the use of fertilizer in combination with manure.
- c) Manure cannot be applied to land that is flooded, saturated with water, frozen, or snow covered at the time of application.
- d) Land application of manure is prohibited during rainfall events and should be delayed if precipitation with the potential to create manure runoff into waters of the State is forecast to occur within 24-hours of the planned application.

10. **Record Keeping.** Maintain all records necessary to document the development and implementation of the nutrient management plan and compliance with the minimum practices defined in the permit. In addition, records must be maintained that document compliance with the effluent limitations specified in the permit.

11. **Buffers or Equivalent Practices.** Provide and maintain buffer strips or other equivalent practices near feedlots, animal confinement areas, manure storage areas, and land application areas that are sufficient to minimize erosion and prevent runoff of manure to waters of the State. These practices may include but are not limited to residue management, conservation crop rotation, grassed waterways, strip cropping, vegetative buffers, forested riparian buffers, terracing, and diversion. Setbacks from: waters of the State including ephemeral and intermittent streams; ditches; residences; potable water wells; etc. contained in SC Regulation 61-43 must be met unless other setbacks are specified in the facility's applicable State Agricultural Permit in which case the setbacks in the State Agricultural Permit apply.

**C. Additional Standards to Protect Water Quality.**

- 1. **Source Water Protection Areas.** When a CAFO is located in a state approved Source Water Protection Area, the Department may require that the Animal Facility Management Plan include additional and more protective water quality controls to ensure protection of the potable water supply.
- 2. **Environmentally Sensitive Waters.** When a CAFO is located in a watershed that contains environmentally sensitive waters (e.g., waters classified as trout waters, outstanding resource waters, waters used for shellfish harvesting, etc.) and the CAFO is upstream of the sensitive waters, the Department may require that the Animal Facility Management Plan include additional and more



protective water quality controls to ensure protection of the environmentally sensitive waters.

3. **Federally Endangered or Threatened Aquatic Species Habitat.** When a CAFO is located in a watershed that contains federally endangered or threatened aquatic species habitat and the CAFO is upstream of the habitat area, the Department may require that the Animal Facility Management Plan include additional and more protective water quality controls to ensure protection of the endangered or threatened aquatic species habitat.
4. **Impaired Waters.** When a CAFO is located in an impaired watershed and is located upstream of the area of impairment, the Department may require that the Animal Facility Management Plan include additional and more protective water quality controls.

#### **D. Facility Closure.**

The following conditions shall apply to the closure of lagoons and other earthen or synthetic lined basins and other manure, litter, or process wastewater storage and handling structures:

##### **1. Closure of Lagoons and Other Surface Impoundments**

- a) No lagoon or other earthen or synthetic lined basin shall be permanently abandoned.
- b) Lagoons and other earthen or synthetic lined basins shall be maintained at all times until closed in compliance with this section.
- c) All lagoons and other earthen or synthetic lined basins must be properly closed if the permittee ceases operation. In addition, any lagoon or other earthen or synthetic lined basin that is not in use for a period of twelve consecutive months must be properly closed unless the facility is financially viable, intends to resume use of the structure at a later date, and either:
  - (1) maintains the structure as though it were actively in use, to prevent compromise of structural integrity; or
  - (2) removes manure and wastewater to a depth of one foot or less and refills the structure with clean water to preserve the integrity of the synthetic or earthen liner. In either case, the permittee shall notify the Department of the action taken, and shall conduct routine inspections, maintenance, and record keeping as though the structure were in use. Prior to restoration of use of the structure, the permittee shall notify the Department and provide the opportunity for inspection.
- d) All closure of lagoons and other earthen or synthetic lined basins must be performed in accordance with SC Regulation 61-82. Consistent with this standard the permittee shall remove all waste materials to the maximum extent practicable and dispose of them in accordance with the permittee's nutrient management plan, unless otherwise authorized by the Department.
- e) Unless otherwise authorized by the Department, completion of closure for lagoons and other earthen or synthetic lined basins shall occur as promptly as practicable after the permittee ceases to operate or, if the permittee has not ceased operations, 12 months from the date on which the use of the structure ceased, unless the lagoons or basins are being maintained for possible future use in accordance with the requirements above.

2. Closure Procedures for Other Manure, Litter, or Process Wastewater Storage and Handling Structures. No other manure, litter, or process wastewater storage and handling structure shall be abandoned. Closure of all such structures shall occur as promptly as practicable after the permittee has ceased to operate, or, if the permittee has not ceased to operate, within 12 months after the date on which the use of the structure ceased. To close a manure, litter, or process wastewater storage and handling structure, the permittee shall remove all manure, litter, or process wastewater and dispose of it in accordance with the permittee's nutrient management plan, or document its transfer from the permitted facility in accordance with off-site transfer requirements specified in this permit (See Part III.D), unless otherwise authorized by the Department.
3. The closure of wastewater storage and handling structures must be in accordance with SC Regulation 61-82.

**E. Requirements for the Transfer of Manure, Litter, and Process Wastewater To Other Persons**

1. In cases where CAFO-generated manure, litter, or process wastewater is sold or given away the permittee must comply with the following conditions:
  - a) Maintain records showing the date and amount of manure, litter, and/or process wastewater that leaves the permitted operation;
  - b) Record the name and address of the recipient;
  - c) Provide the recipient(s) with representative information on the nutrient content of the manure, litter, and/or process wastewater; and
  - d) Provide the recipient(s) with a copy of the crop management plan included in the Animal Facility Management Plan or a copy of the Land Application Requirements brochure approved by the Department which outlines the land application requirements and responsibility for proper management of animal manure.
  - e) All persons who routinely accept manure from a producer, in quantities greater than twelve tons per recipient per year, shall be listed in the approved Animal Facility Management Plan.
  - f) The producer shall inform the recipient of their responsibility to properly manage the land application of manure to prevent discharge of pollutants to waters of the State.
  - g) These records are to be retained on-site, for a period of 8 years, and be submitted to the Department upon request.

**F. Requirements for Land Application Activities Not Under the Control of the Permitted CAFO Owner.**

In cases where CAFO generated manure is sold or given away to be used for land application activities that are not under the operational control of the permitted CAFO, such land application does not need to be addressed in the permitted CAFO's CNMP. However, the permittee must help ensure the environmentally acceptable use of the CAFO generated manure by complying with the following conditions:

1. Maintain records showing the date and amount of manure that leaves the permitted operation;
2. Record the name and address of the recipient. All persons who routinely accept manure in quantities greater than twelve (12) tons per recipient per year must be listed in the approved Animal Facility Management Plan for the CAFO.
3. Provide the recipient(s) with representative information on the nutrient content of the manure to be used in determining the appropriate land application rates; and
4. Inform the recipient of his or her responsibility to properly manage the land application of the manure to prevent the discharge of pollutants to waters of the State.

These records must be maintained on-site, and must be submitted to the Department upon request.

**G. Additional Special Conditions.**

1. Manure Manager's Certification Requirement. The permittee shall ensure that at least one person who is directly responsible for the handling, storage, treatment and utilization of manure and dead animals at the CAFO is certified by Clemson University's Manure Managers Program. For all new CAFOs, before operation begins a roster of certified manure managers associated with the facility's operation shall be submitted to the Department with the name of the manure manager who is in-charge of the day to day operation. Existing CAFOs shall submit a roster of certified manure managers to the Department within 90 days of permit coverage initiation. Any changes in manure managers shall be submitted to the Department as they occur. All employees of the CAFO who are involved with the handling, storage, treatment, and utilization of manure or dead animals must attend training provided by Clemson University's Manure Managers Program.
2. All Weather Access Roads. The permittee shall maintain all weather access roads to the agricultural facility and manure storage/treatment structure(s) at all times.
3. Reopener Clause - Monitoring results. This general permit may be modified, revoked and reissued, terminated, or General Permit coverage revoked and an individual permit issued based on the results from the required monitoring, reports, or the finding of any new information.
4. Irrigation Control. Irrigation systems shall be managed so as to prevent: (1) ponding or puddling of manure on land application areas; (2) runoff from land application areas during irrigation; (3) contamination of ground and surface waters; and (4) the occurrence of nuisance conditions such as odors, flies, and drift of droplets.
5. Spill Prevention. Appropriate measures necessary to prevent spills and to clean up spills of any toxic and other pollutants shall be taken. If spills are anticipated, materials handling procedures and storage must be specified in the CNMP. Procedures for cleaning up spills shall be identified, and the necessary equipment to implement clean up shall be made available to facility personnel. All spills must be reported to the Department.
6. Measurement of Rainfall. A rain gauge shall be kept onsite and properly maintained. A log of all measurable rainfall events shall be kept by the CAFO owner.
7. Liner Requirement. Any manure storage pond, lagoon, or other treatment or storage basin must

have a liner that has an initial specific discharge rate of less than 0.0156 feet/day in order to protect groundwater quality. Geosynthetic liners shall meet NRCS Standards at a minimum.

## Part V. MONITORING, INSPECTION AND NOTIFICATION REQUIREMENTS

### A. Facilities Required to Monitor.

All facilities covered by this general permit are required to conduct sampling of the wastes from their concentrated animal feeding operations and of the soils to which manure is applied. Sampling must be in accordance with the requirements of SC Regulation 61-43 and the facility's applicable State Agricultural Permit. The results of these samples must be used to determine the appropriate agronomic application rate. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

### B. Notification of Discharges Resulting from Manure, Litter, and Process Wastewater Storage, Handling, On-site Transport and Application.

If, for any reason, there is a discharge of pollutants to waters of the State, the permittee is required to make immediate oral notification within 24 hours to the local Environmental Quality Control (EQC) District Office of DHEC from the time the permittee becomes aware of the circumstances. Each District name, address, telephone numbers, and counties served is given in Table 1 below.

Table 1 - DHEC District Offices of EQC	
<b>Appalachia I</b> P.O. Box 1906 2404 N. Main Street Anderson, SC 29621 864-260-5569 (fax: 260-4855) <i>Anderson &amp; Oconee Counties</i>	<b>Lower Savannah</b> 218 Beaufort Street, NE Aiken, SC 29801 803-641-7670 (fax: 641-7675) <i>Aiken, Allendale, Bamberg, Barnwell, Calhoun &amp; Orangeburg Counties</i>
<b>Appalachia II</b> 301 University Ridge, Suite 5800 Greenville, SC 29601 864-241-1090 (fax: 241-1092) <i>Greenville &amp; Pickens Counties</i>	<b>Pee Dee</b> 145 E. Cheves Street Florence, SC 29506 843-661-4825 (fax: 661-4858) <i>Chesterfield, Darlington, Dillon, Florence, Marion &amp; Marlboro Counties</i>
<b>Appalachia III</b> 975-C N. Church Street Spartanburg, SC 29303 864-596-3800 (fax: 596-2136) <i>Cherokee, Spartanburg &amp; Union Counties</i>	<b>Trident</b> 1362 McMillan Ave., Suite 300 Charleston, SC 29405 843-740-1590 (fax: 740-1595) <i>Berkeley, Charleston &amp; Dorchester Counties</i>
<b>Catawba</b> P.O. Box 100 Fort Lawn, SC 29714 803-285-7461 (fax: 285-5594) <i>Chester, Lancaster &amp; York Counties</i>	<b>Upper Savannah</b> 613 South Main Street Greenwood, SC 29646 864-223-0333 (fax: 223-6935) <i>Abbeville, Edgefield, Greenwood, Laurens, McCormick &amp; Saluda Counties</i>

<b>Central Midlands</b> P.O. Box 156, Building #5 State Park, SC 29147 803-896-0620 (fax: 896-0617) <i>Fairfield, Lexington, Newberry &amp; Richland Counties</i>	<b>Waccamaw</b> 1705 Oak Street Plaza, Suite #2 Myrtle Beach, SC 29577 843-448-1902 (fax: 946-9390) <i>Georgetown, Horry &amp; Williamsburg Counties</i>
<b>Low Country</b> 104 Parker Drive Burton, SC 29906 843-846-1030 (fax: 846-0604) <i>Beaufort, Colleton, Hampton &amp; Jasper Counties</i>	<b>Wateree</b> P.O. Box 1628 105 N. Magnolia Street Sumter, SC 29151 803-778-1531 (fax: 773-6366) <i>Clarendon, Kershaw, Lee &amp; Sumter Counties</i>

After business hours reporting should be made to the Department's 24-hour Emergency Response telephone number **(888) 481-0125** or in Columbia call **(803) 253-6488**. A written submission shall also be provided to the local EQC District Office within five (5) working days of the time the permittee becomes aware of the circumstances. The written submission shall contain the following information:

1. A description of the discharge and its cause, including a description of the flow path to the receiving water body and an estimate of the flow and volume discharged;
2. The period of discharge, including exact dates and times; and
3. If the discharge has not been corrected, the anticipated time it is expected to continue; and
4. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the discharge.

### **C. Monitoring Requirements for All Discharges from Retention Structures.**

In the event of any overflow or discharge of pollutants from the manure and/or wastewater storage/treatment or retention structure(s), the following actions shall be taken:

1. Analysis of the discharge: All discharges shall be sampled and analyzed. Samples must, at a minimum, be analyzed for the following parameters: total nitrogen, ammonia nitrogen, phosphorus, fecal coliform bacteria, five-day biochemical oxygen demand (BOD<sub>5</sub>), total suspended solids (TSS), pH, and temperature. The discharge is to be analyzed in accordance with approved EPA methods for water analysis listed in 40 CFR Part 136.
2. Estimate volume of the discharge: Record an estimate of the volume of the release, the date and time of the release, the weather conditions at the time of the release, and the name of the waters of the State the release entered.
3. Sampling Procedures: Samples shall consist of grab samples collected from the overflow or discharges from the retention structure. A minimum of one sample shall be collected from the initial discharge (within 30 minutes). The sample shall be collected and analyzed in accordance with the approved EPA methods for water analysis listed in 40 CFR Part 136. Samples collected for the purpose of monitoring shall be representative of the monitored discharge. Monitoring results must be submitted to the Department within 30 days.

4. **Reasons for not sampling:** If conditions are not safe for sampling, the permittee must provide documentation of why samples could not be collected and analyzed. For example, the permittee may be unable to collect samples during dangerous weather conditions (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) However, once dangerous conditions have passed, the permittee shall collect a sample from the retention structure (storage pond or lagoon) from which the discharge occurred.

**D. General Inspection, Monitoring and Record keeping Requirements.**

1. **Daily Inspections.** The permittee shall provide for: a) the performance of routine daily inspections of the production area and, on days when manure is being land applied, the land applications areas; and b) daily record keeping by employees. The inspections shall include, but are not limited to, areas which require a visual observation to determine efficient operations and for which immediate corrective measures can be taken using the Animal Facility Management Plan and NMP as a guide.
2. **Weekly and After Rainfall Inspections.** The permittee shall provide for the performance of detailed inspections by a certified manure manager. Record keeping on the detailed inspections must be undertaken by the certified manure manager who performed the detailed inspection. The frequency of the detailed inspections shall be as given in the facility's applicable State Agricultural Permit. If the facility's applicable State Agricultural Permit does not specify the frequency of detailed inspections, the detailed inspections must be conducted weekly. Also, a detailed inspection must be performed within 24 hours after any rainfall event of 0.5 inches or more. The areas to be included in the detailed inspection are those items in Table 2 of Part V.D.6 of this general permit, which are listed as daily, weekly, and, when appropriate, annually, once/3years, and once/5 years.
3. **Yearly Inspections.** The permittee shall provide for the performance of an annual Comprehensive Environmental Compliance Assessment. This assessment must include:
  - a) Review of all the previous year's records, inspections, reports, monitoring data, actual land application rates utilized, dead animal disposal records, corrective actions taken (if any) to address real or potential problems identified during the year, and operating procedures utilized by the CAFO to ensure compliance with this general permit;
  - b) Review of the NMP (including any updates) and the applicable approved Animal Facility Management Plan; and
  - c) Review of the previous five years' annual reports.

The annual assessment must be conducted by a certified manure manager. If any problems occurred that were also identified in any of the previous five years' annual assessment reports, these reoccurring problems must be specifically noted in the annual report. For each problem identified by the annual assessment, the annual report must include a corrective action plan with an implementation schedule. If necessary, the NMP and/or the Animal Facility Management Plan must be updated, as appropriate, based on the annual report. A report summarizing the annual comprehensive environmental compliance review must be prepared and sent to the Department. This summary report must also include the annual certification that the NMP has been reviewed to assess its adequacy in protecting water quality as required by Part IV.A.8 of this general permit. The annual report must be submitted according to Part V.E.4.d). of this general permit.

4. **Other Inspections.** The permittee shall periodically inspect equipment used for land application of manure, or process wastewater. These inspections must be performed at least once during each use.
5. All inspections shall be recorded and shall include the date, time, name of the person making the inspection, corrective measures taken, and routine equipment maintenance, repair, or replacement performed. The permittee shall maintain all records of inspections at the permitted facility as required by Part VII.D. (Monitoring and Records) and the records shall be made available for on-site review by the Department and EPA during normal working hours.
6. **Record Keeping Requirements.**
  - a) Each CAFO must maintain on-site for a period of five years from the date they are created a complete copy of their State Agricultural Permit, the approved Animal Facility Management Plan including any updates, monitoring results, inspections results, and annual reports. The CAFO must make these records available to the Department and the Environmental Protection Agency for review upon request.
  - b) Each CAFO must maintain on-site a copy of its site-specific nutrient management plan. Each CAFO must maintain all records associated with the land application areas for a period of five years. The CAFO must make these records available to the Department and the Environmental Protection Agency for review upon request.
  - c) The permittee shall inspect, monitor, and record the results of such inspection and monitoring in accordance with the following:

<b>Table 2 – NPDES Large CAFO Permit Record Keeping Requirements</b>		
<b>Parameter</b>	<b>Units</b>	<b>Frequency</b>
<b>Nutrient Management Plan</b> ( <i>Note: Required by the NPDES CAFO Regulation – applicable to all CAFOs</i> )		
The CAFO must maintain on-site a current site-specific NMP that reflects existing operational characteristics. The operation must also maintain on-site all necessary records to document that the NMP is being properly implemented with respect to manure and wastewater generation, storage and handling, and land application. In addition records are to be maintained that the development and implementation of the NMP is in accordance with the minimum practices defined in SC Regulation 61-9, Section 122.42(e).	N/A	Maintain at all times
<b>Soil and Manure/Wastewater Nutrient Analysis</b> <sup>1</sup> ( <i>Note: Required by the CAFO ELG-applicable to Large CAFOs</i> )		
Analysis of manure, litter, and process wastewater to determine nitrogen and phosphorus content. <sup>2</sup>	ppm pounds/ton	Annually or when the feed composition changes significantly
Analysis of soil (plowlayer or top 6-8 inches) in all fields where land application activities are conducted to determine phosphorus content. <sup>2</sup>	ppm pounds/acre	Annually
Deep Soil Analysis (18 inch depth in 6 inch intervals) in a representative field for each crop grown.	ppm pounds/acre	Once each year for the first three years of

		operation
<b>Operation and Maintenance</b> (Note: Required by the CAFO ELG – applicable to Large CAFOs)		
Visual inspection of all water lines, including drinking water and cooling water lines for leaks.	N/A	Daily <sup>3</sup>
All storm water diversion devices, runoff diversion structures, and devices channeling contaminated storm water to the wastewater and manure storage and containment structure.	N/A	Weekly
Review all facilities and land application areas addressed in the NMP to evaluate whether the NMP is adequately and properly implemented or whether additional control measures are needed.	N/A	Annually
Documentation of depth of manure and process wastewater in all liquid impoundments <sup>4</sup>	Feet	Weekly
Structural Integrity (i.e. integrity of dikes) <sup>5</sup>	N/A	Weekly
Integrity of Liners and absence of a hydrologic connection <sup>6</sup>	N/A	Once every 5 years
Documentation of all corrective actions taken	N/A	As Necessary
Number of Animal Mortalities	# of animals	Monthly
Documentation of animal mortality handling practices	N/A	As Necessary
<b>Design Documentation for all manure, litter, and wastewater storage/treatment structures including the following information:</b>		
Volume of solids accumulation	Cubic yards or gallons	Once in the permit unless revised
Design treatment volume	Cubic yards or gallons	Once in the permit unless revised
Total design storage volume <sup>7</sup>	Cubic yards or gallons	Once in the permit unless revised
Days of storage capacity	days	Once in the permit unless revised
<b>Documentation of all overflows from all manure and wastewater storage structures including: (Note: Required by the NPDES Regulation – applicable to all CAFOs)</b>		
Date and time of overflow	Month/day/year	Per event
Estimated volume of overflow	Total gallons	Per event
Analysis of overflow (as required by the Department)	TBD	Per event
Documentation of manure application equipment inspection	N/A	Seasonally
<b>Land Application</b> (Note: Required by the CAFO ELG – applicable to Large CAFOs)		
<b>For each application event where manure, litter, or process wastewater is applied, documentation<sup>8</sup> of the following by field:</b>		
Date of Application	Month/day/year	Daily
Duration of land application activities	Hours/day	Daily
Method of application	N/A	Daily
Quantity of manure applied	tons or gallons	Daily
Application Rate	tons/acre	Daily
Application field Area	acres	Daily
Total amount of Nitrogen and Phosphorus applied <sup>9</sup>	Pounds/acre	Daily



Weather conditions at the time of application and for 24 hours prior to and following application	N/A	Daily
Rainfall <sup>10</sup>	Inches	Daily
Documentation of the crop and expected yield for each field	Bushel/acre	Seasonally
Documentation of test methods and sampling protocols used to sample and analyze manure, litter, and wastewater and soil.	N/A	Once in the permit term unless revised
Documentation of the basis for the application rates used for each field where manure, litter, or wastewater is applied.	N/A	Once in the permit term unless revised
Documentation showing the total nitrogen and phosphorus to be applied to each field including nutrients from the application of manure, litter, and wastewater and other sources	Pounds/acre	Once in the permit term unless revised
<b>Manure Transfer</b> (Note: Required by the NPDES CAFO Regulation – applicable to Large CAFOs)		
<b>For all manure transfers the CAFO must maintain the following records:</b>		
Date of Transfer	Month/day/year	As necessary
Name and address of recipient	N/A	As necessary
Approximate amount of manure, litter or wastewater transferred	Tons or gallons	As necessary

Footnotes:

- 1 - A complete inspection of the facility must be done and a report made annually (see also paragraph F.3 of this section).
- 2 - Refer to the state nutrient management technical standard for the specific analyses to be used.
- 3 - Visual inspections should take place daily during the course of normal operations. The completion of such inspection should be documented in a manner appropriate to the operation. Some operations may wish to maintain a daily log. Other operations may choose to make a weekly entry, when they update other weekly records, that required daily inspections have been completed.
- 4 - For lagoons, storage ponds, or other liquid storage basins, report the water level as feet below the maximum operating level. For solid manure storage structures, report the percentage of remaining storage capacity.
- 5 - Documentation of compliance with this requirement must be compiled in a detailed inspection report to be kept at the facility.
- 6 - Permittee shall document compliance with this requirement by preparing a report that must be kept at the facility.
- 7 - Total design volume includes normal precipitation less evaporation on the surface of the structure for the storage period, normal runoff from the production area for the storage period, 25-year, 24-hour precipitation on the surface of the structure, 25-year, 24-hour runoff from the production area, and residual solids.
- 8 - Monitoring during periods of land application only. Land application practices must be conducted in accordance with the permittee's approved NMP and the requirements of SC Regulation 61-43.
- 9 - Including quantity/volume of manure, litter, or process wastewater applied and the basis for the rate of phosphorus application.
- 10 - The permittee shall maintain a precipitation gauge at each permitted facility and record the

rainfall over each 24-hour period.

**E. Additional Monitoring Requirements.**

1. Additional monitoring for some high risk operations: Upon notification by Department, the permittee may be required to conduct ambient monitoring of surface and/or groundwater. For example, facilities with historical compliance problems, especially large facilities, facilities with significant environmental concerns, or facilities impacting impaired water bodies.
2. Upon request by the Department, the permittee will be required to collect and analyze additional samples including but not limited to soils, surface waters, ground water, and/or stored waste in a manner and frequency specified by the Department. Additional or accelerated monitoring may be required to determine the nature and impact of a discharge on the environment or to determine if a single noncomplying sample is representative of the long term condition.
3. Procedures for Monitoring. Test procedures for the analysis of pollutants shall conform to regulations published pursuant to State Environmental Laboratory Certification Regulation 61-81 and Section 304(h) of the Act, as amended. (Federal Register, October 16, 1973; Title 40, Chapter I, Subchapter D, Part 136 "Guidelines Establishing Test Procedures for the Analysis of Pollutants." Amended by Federal Register, December 1, 1976, and any other amendments that may be promulgated).
4. Monitoring reports.
  - a) Monitoring results must be reported on an Agricultural Monitoring Report (AMR) form or other forms provided or specified by the Department for reporting manure use or disposal practices and the results of monitoring manure, sludge, soils, groundwater, etc.
  - b) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the AMR or other reporting form specified by the Department.
  - c) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
  - d) Permittees must submit monitoring results obtained during each reporting period running from November to October on Agricultural Monitoring Report Form(s) postmarked no later than the 28th day of the following November. The first report may include less than one year of information. Only the original copy of the monitoring report is required to be submitted.
  - e) Signed copies of the required Agricultural Monitoring Reports required herein shall be submitted to the Department at the following address:

Compliance Assurance Division  
Bureau of Water  
SC Department of Health and Environmental Control  
2600 Bull Street  
Columbia, SC 29201

## **Part VI. ANNUAL REPORTING REQUIREMENTS**

1. The permittee must submit an annual report to the Department by July 30 of each year.
2. The annual report must include the following information:
  - a) The number and type of animals, whether in open confinement or housed under roof;
  - b) Estimated amount of total manure, litter and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);
  - c) Estimated amount of total manure, litter and process wastewater transferred to other person by the CAFO in the previous 12 months (tons/gallons);
  - d) Total number of acres for land application covered by the nutrient management plan;
  - e) Total number of acres under control of the CAFO that were used for land application of manure, litter and process wastewater in the previous 12 months;
  - f) Summary of all manure, litter and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume; and
  - g) A statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner.

## **Part VII. STANDARD PERMIT CONDITIONS**

### **A. General Conditions.**

1. In accordance with the provisions of 40 CFR Part 122.41, et. seq., this permit incorporates by reference all conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (hereinafter known as the "Act") as well as all applicable regulations.
2. Duty to comply.
  - a) The permittee shall comply with effluent standards and prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
  - b) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Clean Water Act and the Pollution Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application; and/or requiring a permittee to apply and obtain an individual NPDES permit.
  - c) Failure to comply with permit conditions or the provisions of SC Regulation 61-9 may subject the permittee to civil penalties under SC Code Section 48-1-330 or criminal sanctions under SC Code Section 48-1-320. Sanctions for violations of the Federal Clean Water Act may be imposed in accordance with the provisions of 40 CFR Part 122.41(a)(2) and (3).

- d) A person who violates any provision of: SC Regulation 61-9; SC Regulation 61-43; a term, condition or schedule of compliance contained within either a State Agricultural Permit or an NPDES permit; or the SC Pollution Control Act is subject to the actions defined in the SC Pollution Control Act.
- 3. Duty to reapply. If the permittee wishes to continue an activity regulated by this general permit after the expiration date of this general permit, the permittee must apply for and obtain a new permit unless the reissued general permit does not require reapplication to be made by existing permittees.
- 4. Permit actions. This general permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.
- 5. Property rights. This general permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State/Tribal or local laws or regulations.
- 6. Duty to provide information. The permittee shall furnish to the EPA and/or the Department, within a reasonable time, any information which the EPA and/or the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this general permit or to determine compliance with this general permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this general permit.
- 7. Misrepresentation of Information.
  - a) Any person making application for an NPDES permit or filing any record, report, or other document pursuant to a regulation of the Department, shall certify that all information contained in such document is true. All application facts certified to by the applicant shall be considered valid conditions of the permit issued pursuant to the application.
  - b) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, or other documents filed with the Department pursuant to State law, and the rules and regulations pursuant to that law, shall be deemed to have violated a permit condition and shall be subject to the penalties provided for pursuant to Section 48-1-320 or 48-1-330 of the SC Pollution Control Act or criminal enforcement pursuant to 18 U.S.C. Section 1001.
- 8. State/Environmental Laws.
  - a) Nothing in this general permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.
  - b) Nothing in this general permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the CWA.

- c) No condition of this general permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.
- 9. Removed Substances. Substances (such as: liquid manure; solids or sludge removed from lagoons or storage ponds; dry manure; litter; dead animals; medical supplies; medical wastes; or other residuals) either removed in the course of treatment or control of manure or generated by the confinement of animals shall be disposed of in a manner so as to prevent such materials from entering waters of the State. Disposal of all removed or generated substances must be in accordance with this general permit, guidelines issued pursuant to Section 405 of the CWA, the terms of the facility's applicable State Agricultural Permit, and any other permit issued to the CAFO owner by the Department under Regulation 61-9.
- 10. Chemical Addition for Manure Treatment Purposes. Approval from the Department must be obtained prior to chemical addition to manure treatment or storage systems.
- 11. Severability. The provisions of this general permit are severable. If any provision of this general permit or the application of any provision of this general permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this general permit shall not be affected thereby.

**B. Proper Operation and Maintenance.**

- 1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this general permit.
- 2. The permittee shall take all reasonable steps to minimize or prevent any discharge or manure use or disposal in violation of this general permit which has a reasonable likelihood of adversely affecting human health or the environment.
- 3. The permittee shall at all times properly operate and maintain in good working order and operate as efficiently as possible all facilities and systems of treatment and control (and related appurtenances) and Best Management Practices which are installed or used by the permittee to achieve compliance with the terms and conditions of this general permit and the facility's applicable State Agricultural Permit. Proper operation and maintenance includes effective performance based on facility design, adequate funding, adequate operator staffing and training, and also includes adequate laboratory and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by a permittee, only when the operation is necessary to achieve compliance with the conditions of the permit.

**C. Inspection and Entry.**

The permittee shall allow the EPA and/or the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA and/or the Department), upon presentation of credentials and other documents as may be required by law, to:

- 1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this general permit;
- 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of

this general permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this general permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and Pollution Control Act, any substances or parameters at any location.

**D. Monitoring and Records.**

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
2. The permittee shall retain records of all monitoring information, including all calibration and maintenance records, and copies of all reports required by this general permit, and records of all data used to complete the application for this general permit, for a period of at least eight years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
3. Records of monitoring information shall include:
  - a) The date, exact place, and time of sampling or measurements;
  - b) The individual(s) who performed the sampling or measurements;
  - c) The date(s) analyses were performed;
  - d) The individual(s) who performed the analyses;
  - e) The analytical techniques or methods used; and
  - f) The results of such analyses.
4. Monitoring results must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in the permit or approved by the Department.
5. All analysis must be performed by a laboratory certified under SC Regulation 61-81.
6. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instruments at intervals frequent enough to insure accuracy of measurements and shall maintain appropriate records of such activities.
7. An adequate analytical quality control program, including the analyses of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.
8. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this general permit shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not

more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.

9. Section 48-1-340 of the SC Pollution Control Act provides that any person who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained by this general permit, shall be subject to the civil or criminal provisions of Sections 48-1-330 and 48-1-320 of the SC Pollution Control Act.
10. Except for data determined to be confidential under Section 48-1-270 of the SC. Pollution Control Act, all reports prepared in accordance with the terms and conditions of this general permit shall be available upon request for public inspection at the offices of the Department. As required by the CWA, waste analysis shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 48-1-340 of the SC Pollution Control Act.

#### **E. Reporting Requirements.**

1. Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
  - a) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Section 122.29(b) of SC Regulation 61-9;
  - b) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section 122.42(a)(1) of SC Regulation 61-9; or
  - c) The alteration or addition results in a significant change in the permittee's manure use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
  - d) The notice must be sent to the following address:

Industrial, Agricultural, and Stormwater Permitting Division  
Bureau of Water  
SC Department of Health and Environmental Control  
2600 Bull Street  
Columbia, SC 29201
  - e) The application for the State Agricultural Permit will serve as notification under this section for any planned change that is required under SC Regulation 61-43 to be permitted before the change can be made.
2. Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. The notice must be sent to the following address:

Water Enforcement Division  
Bureau of Water  
SC Department of Health and Environmental Control  
2600 Bull Street  
Columbia, SC 29201

3. Transfers. This general permit is not transferable to any person except after notice to the Department as specified in Part III.D (Transfer of Ownership or Control) of this general permit. The Department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Pollution Control Act and the Clean Water Act. (See Section 122.61 of SC Regulation 61-9; in some cases, modification or revocation and reissuance is mandatory.) Requests for permit transfers must be sent to the following address:

NPDES Administration  
Bureau of Water  
SC Department of Health and Environmental Control  
2600 Bull Street  
Columbia, SC 29201

4. Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this general permit shall be submitted no later than 14 days following each schedule date.
5. Twenty-four hour reporting. The permittee shall report: any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours to the local Environmental Quality Control (EQC) District Office of DHEC from the time the permittee becomes aware of the circumstances. After business hours reporting should be made to the Department's 24-hour Emergency Response telephone number **(888) 481-0125** or in Columbia call **(803) 253-6488**. A written submission shall also be provided to the local EQC District Office within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain the following information: a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- a) The following shall be included as information, which must be reported within 24 hours under this paragraph.
- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit.
  - (2) Any upset which exceeds any effluent limitation in the permit.
  - (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.
  - (4) Items a, b, and c above include any discharge from a facility including, but not limited to, the animal growing areas, lagoons, storage ponds, other treatment facilities, or land application areas when the manure is not properly land applied in accordance with the



requirements of the facility's State Agricultural Permit, SC Regulation 61-43, and this general permit.

- b) The Department may waive the written report on a case-by-case basis for reports under paragraph E.5. of this section if the oral report has been received within 24 hours.
- c) In addition to the report in paragraph E.5. of this section, a detailed written report including the following must be prepared and sent to the Department within 30 days of the date the noncompliance ceased. The report must include:
  - (1) A copy of the written five-day report that was provided to the EQC District Office (if the five-day report was waived, the information required to be in the five-day report must be included in the 30-day report);
  - (2) A description of the events that led to or caused the noncompliance;
  - (3) If a discharge occurred, all sampling results and a discussion of the results;
  - (4) A listing and discussion of all known impacts to the environment;
  - (5) All actions taken to minimize the impact(s) of the noncompliance;
  - (6) All parties notified of the noncompliance;
  - (7) An evaluation of whether or not the Animal Facility Management Plan must be amended to ensure noncompliance does not reoccur; and
  - (8) Any other information pertinent to the situation.

The report must be sent to the following address:

Bureau of Water Enforcement Division  
SC Department of Health and Environmental Control  
2600 Bull Street  
Columbia, SC 29201

- 6. Immediate reporting. When noncompliance may adversely affect a surface water intake for a potable water plant or a potable water well, the owner of the CAFO must immediately notify the owner of the potable water system and the appropriate EQC District Office.
- 7. Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs E. 4 and 5 of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph E.5.v. of this section.
- 8. Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

#### **F. Signatory Requirement.**

1. All applications, reports, or information submitted to the Department shall be signed and certified consistent with 40 CFR 122.22.
  - a) Applications. All permit applications shall be signed as follows:
    - (1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
      - (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
      - (b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; or the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
    - (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
    - (3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
      - (a) the chief executive officer of the agency; or
      - (b) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
  - b) All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
    - (1) The authorization is made in writing by a person described above and submitted to the Department;
    - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly

authorized representative may thus be either a named individual or any individual occupying a named position.); and

- (3) The written authorization is submitted to the Department.
- c) Changes to authorization. If an authorization under Part VII.F.1.b). is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part VII.F.1.b) must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized person.

#### **G. Certification.**

Any person signing documents under this section shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

#### **H. Bypass.**

1. **Bypass not exceeding limitations.** The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraph H.2 and H.3 of this section. This paragraph does not authorize a point source discharge to waters of the State under any circumstances from any portion of a CAFO including land application areas.
2. **Notice.**
  - a) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten days before the date of the bypass.
  - b) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph E.5 of this section (24-hour notice).
3. **Prohibition of bypass.**
  - a) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:
    - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should

have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

- (3) The permittee submitted notices as required under paragraph H.2 of this section.
- b) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph H.3.a) of this section.

## **I. Upset.**

1. **Effect of an upset.** An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph I.2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
2. **Conditions necessary for a demonstration of upset.** A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - b) The permitted facility was at the time being properly operated;
  - c) The permittee submitted notice of the upset as required in paragraph E.5. of this section (24 hour notice); and
  - d) The permittee complied with any remedial measures required under paragraph B of this section.
3. **Burden of proof.** In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

## **J. Availability of Reports**

Any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

## **K. Penalties for Violations of Permit Conditions**

1. Criminal Penalties:
  - a) Negligent violations: The Act provides that any person who negligently violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act or any condition or limitation implementing those provisions in a permit issued under Section 402 is subject to a fine of not less than \$2,750 nor more than \$27,500 per day of violation, or by imprisonment for not more than one year, or

both.

- b) Knowing violations: The Act provides that any person who knowingly violates Sections 301, 302, 306, 307, 308, 318, or 405 of the Act or any permit conditions implementing those provisions is subject to a fine of not less than \$5,500 nor more than \$55,000 per day of violation, or by imprisonment for not more than three years, or both.
  - c) Knowing endangerment: The Act provides that any person who knowingly violates Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act or permit conditions implementing those provisions and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$275,000, or by imprisonment for not more than 15 years, or both.
  - d) False statements: The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$11,000, or by imprisonment for not more than two years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$22,000 per day of violation, or by imprisonment of not more than four years, or by both. [See Section 309(c)4 of the Clean Water Act]
2. Civil penalties: The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$27,500 per day for each violation. [See Section 309(d)]
3. Administrative penalties: The Act provides that the Administrator may assess a Class I or Class II administrative penalty if the Administrator finds that a person has violated Sections 301, 302, 306, 307, 308, 318, or 405 of the Act or a permit condition or limitation implementing these provisions, as follows [See Section 309(g)]:
- a) Class I penalty: Not to exceed \$11,000 per violation nor shall the maximum amount exceed \$27,500.
  - b) Class II penalty: Not to exceed \$11,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$137,500.

## **Part VIII. DEFINITIONS**

The following definitions apply to this general permit. Terms not defined in this section have the meaning as defined in the Clean Water Act or the SC Pollution Control Act.

- A. “25-year, 24-hour rainfall event” means the maximum 24-hour precipitation event with a probable reoccurrence interval of once in 25 years, as defined by the National Weather Service in Technical Paper Number 40, “Rainfall Frequency Atlas of the United States,” May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom.
- B. “Act” or “CWA” means the Clean Water Act (formerly referred to as the Federal Water Pollution

Control Act) Public Law 92-500, as amended.

- C. “Administrator” means the Administrator of the Environmental Protection Agency or any employee of the Agency to whom the Administrator may by order delegate the authority to carry out his functions under Section 307(a) of the CWA, or any person who shall by operation of law be authorized to carry out such functions.
- D. “Agricultural animal” means an animal confined in an agricultural facility.
- E. “Agricultural facility” means a lot, building, or structure which is used for the production of animals in an animal facility.
- F. “Agronomic application rate” means the application rate (dry weight basis) of nutrients (fertilizer, manure, and/or other sources of nutrients) to land which is based on the limiting nutrient and a realistic yield for a viable crop and which is designed: (1) to provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop, or vegetation grown on the land; and (2) to minimize the amount of nitrogen that passes below the root zone of the crop or vegetation grown on the land to the groundwater; and (3) to provide the amount of other organic and inorganic plant nutrients which promote crop or vegetative growth, such as calcium-carbonate equivalency; and (4) to provide the amount of phosphorus needed by the crop or vegetation grown on the land without causing an excessive buildup of phosphorus in the soil.
- G. “Animal” means any agricultural animal.
- H. “Animal Feeding Operation” or “AFO” means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:
  - (1) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period; and
  - (2) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Structures used for the storage of manure, process wastewater, and other animal by-products from animals in the operation are also part of the animal feeding operation. Land application areas under control of the animal facility owner are also part of the animal feeding operation. Two or more animal feeding operations under common ownership or management are considered to be a single animal feeding operation if they are adjacent or utilize a common system for manure or process wastewater handling, storage, or treatment.

- I. “Animal Facility Management Plan” means a plan prepared by the United States Department of Agriculture’s Natural Resources Conservation Service or a professional engineer detailing the management, handling, storage, treatment, and utilization of manure generated in an animal facility. This plan will include: animal production details; facility management details; if applicable, a ground water monitoring program; a soil monitoring plan; a dead animal disposal plan; a vector abatement plan; an odor abatement plan; an emergency plan; detailed maps of each land application area showing all buffer zones, setbacks, and a description of adjoining land use; and, for each land application area, the crops grown, the timing for application of manure to the land, and, if the site is not owned by the permittee, a land use agreement. The portion of the Animal Facility Management Plan dealing with land application of the manure and other materials which are sources of nutrients as fertilizer on crops at

agronomic application rates is a part of the “Comprehensive Nutrient Management Plan” or “CNMP.” The CNMP identifies actions or priorities for owners to follow to clearly meet defined nutrient management goals at the facility. The CNMP is usually a part of the overall Animal Facility Management Plan but it can be a separate plan that is referenced in the Animal Facility Management Plan.

- J. “Application” means the EPA standard national forms for seeking coverage under an NPDES permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in “approved states”, including any approved modifications or revisions [e.g. for NPDES general permits, a written “notice of intent” pursuant to 40 CFR 122.28; for NPDES individual permits, Form 1 and 2B pursuant to 40 CFR 122.1(d)].
- K. “Average animal live weight” means the sum of the average exit weight of the animal from the facility and the average entry weight divided by two, as shown by the following formula:  
$$\text{Average animal live weight} = (\text{Average Exit Weight} + \text{Average Entry Weight})/2$$
- L. “Best Management Practices” or “BMPs” means the schedules of activities, prohibitions of practices, maintenance procedures, and other managerial procedures to prevent or reduce the pollution of surface and ground water of the State. BMPs also include treatment requirements, operating procedures and practices to control animal facility runoff, spillage or leaks, manure, sludge or waste disposal, or drainage from raw material storage.
- M. “Board” means the Board of Health and Environmental Control for the State of South Carolina and shall be inclusive of any agent designated by the Board to perform any function.
- N. “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.
- O. “CFR” means the Code of Federal Regulations, as amended.
- P. “Closed facility” means an animal facility that has ceased operations (no confined animals at the facility) and is no longer in production.
- Q. “Concentrated Animal Feeding Operation” or “CAFO” means an animal feeding operation (AFO) that is defined as a Large CAFO or Medium CAFO by 40 CFR 122.23 (4) and (6), or that is designated as a CAFO.
- R. “CWA” means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117, 33 U.S.C. 1251 et seq. Specific references to sections within the CWA will be according to Pub. L. 92-500 notation.
- S. “Department” means the South Carolina Department of Health and Environmental Control and shall be also inclusive of those persons within the Department authorized by the Board to administer the NPDES Permit Program or take any action on behalf of the Board.
- T. “DHEC” means the South Carolina Department of Health and Environmental Control.
- U. “Discharge” means any discharge of pollutant or combination of pollutants from the animal confinement or manure storage and handling areas of a CAFO, or from the land application area(s) under the control

of the CAFO operator, which enters waters of the State.

- V. “Discharger” means any person who discharges any treated or untreated sewage, industrial wastes, or other wastes into any waters of the State.
- W. “Effluent limitation” means any restriction imposed by the Department on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the State, the waters of the contiguous zone, or the ocean.
- X. “Effluent limitation guidelines” means a regulation published by the Administrator under Section 304(b) of the CWA to adopt or revise effluent limitations.
- Y. “EPA” means the United States Environmental Protection Agency.
- Z. “Ephemeral stream” means a stream that flows only in direct response to rainfall or snowmelt in which discrete periods of flow persist no more than twenty-nine consecutive days per event.
- AA. “Expanding or expansion” means an increase in the permitted number of animals or an increase in the amount of manure generated at the CAFO.
- BB. “Facility or activity” means animal facility or activity associated with an animal facility.
- CC. “Fecal coliform” means the bacterial count (Parameter 1) at 40 CFR 136.3 in Table 1A, which also cites the approved methods of analysis.
- DD. “Grab sample” means a sample which is taken from a waste stream on a one-time basis without consideration of the flow rate of the waste stream and without consideration of time.
- EE. “Groundwater” means water below the land surface in the saturated zone.
- FF. “Impaired Watershed” means a watershed which contains a stream, river, lake, pond, or other water body that has been listed according to Section 303(d) of the CWA in the Department’s most recent approved *303(d) List of Impaired Waters* due to the water body not meeting water quality standards as given in SC Regulation 61-68.
- GG. “Intermittent stream” means a stream that generally has a defined natural watercourse which does not flow year-round but flows beyond periods of rainfall or snowmelt.
- HH. “Lagoon” means an impoundment used in conjunction with an animal facility, the primary function of which is to store and stabilize manure, organic wastes, and contaminated runoff.
- II. “Land application” means the spraying or spreading of manure onto the land surface; the injection of manure below the land surface into the root zone; or the incorporation of manure into the soil so that the manure can either condition the soil or fertilize crops or vegetation grown in the soil.
- JJ. “Land application area” means land under the control of a CAFO owner or operator, whether it is owned, rented, or leased, to which manure, litter or process wastewater from the production area is spread as a fertilizer or soil amendment and is synonymous with land application site.
- KK. “Large Concentrated Animal Feeding Operation” or “Large CAFO” means an AFO that stables or



confines as many as or more than the number of animals specified in any of the following categories:

<b>Animal Type</b>	<b># of Animals</b>
Mature Dairy Cattle (whether milked or dry)	700
Veal Calves	1,000
Cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls, and cow/calf pairs	1,000
Swine (each weighing 55 pounds or more)	2,500
Swine (each weighing less than 55 pounds)	10,000
Horses	500
Sheep or Lambs	10,000
Turkeys	55,000
Laying Hens or Broilers (if the facility uses a liquid manure handling system)	30,000
Chickens other than laying hens (if the facility uses other than a liquid manure handling system)	125,000
Laying Hens (if the facility uses other than a liquid manure handling system)	82,000
Ducks (if the facility uses other than a liquid manure handling system)	30,000
Ducks (if the facility uses a liquid manure handling system)	5,000

LL. "Liquid manure handling system" means a system that collects and transports or moves waste material with the use of water, such as in washing of pens and flushing of confinement facilities. This would include the use of water impoundments for manure and/or wastewater treatment.

MM "Manure" means the fecal and urinary excretion of animals. This material may also contain bedding, compost, spilled feed, water, soil or other materials commingled with manure or set aside for land application or other use. It may also include wastes not associated with livestock excreta, such as milking center washwater, contaminated milk, hair, feathers, or other debris. Manure may be described in different categories as related to solids and moisture content, such as dry manure and liquid manure. For purposes of this general permit, manure also includes process wastewater as defined in this general permit.

NN. "Medium Concentrated Animal Facility" or "Medium CAFO" means any AFO with the type and number of numbers that fall within any of the ranges listed below and which has been defined or designated as a CAFO. An AFO is defined as a Medium CAFO if:

1. the type and number of animals that it stables or confines falls within any of the following ranges:

<b>Animal Type</b>	<b># of Animals</b>
Mature Dairy Cattle (whether milked or dry)	200 to 699
Veal Calves	300 to 999
Cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls, and cow/calf pairs	300 to 999

<b>Animal Type</b>	<b># of Animals</b>
Swine (each weighing 55 pounds or more)	750 to 2,499
Swine (each weighing less than 55 pounds)	3,000 to 9,999
Horses	150 to 499
Sheep or Lambs	3,000 to 9,999
Turkeys	16,500 to 54,999
Laying Hens or Broilers (if the facility uses a liquid manure handling system)	9,000 to 29,999
Chickens other than laying hens (if the facility uses other than a liquid manure handling system)	37,500 to 124,999
Laying Hens (if the facility uses other than a liquid manure handling system)	25,000 to 81,999
Ducks (if the facility uses other than a liquid manure handling system)	10,000 to 29,999
Ducks (if the facility uses a liquid manure handling system)	1,500 to 4,999

**and**

2. either of the following conditions is met:

- a) pollutants are discharged into waters of the State through a man-made ditch, flushing system or other similar man-made device; or
- b) pollutants are discharged directly into waters of the State which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation except for normal storm water runoff from manure land application sites where agronomic application rates are used and the land application requirements of the approved animal facility management plan have been followed.

OO. “National Pollutant Discharge Elimination System” or “NPDES” means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the CWA.

PP. “Normal production animal live weight at any one time” means the maximum number of animals at the facility at any one time multiplied by the average animal live weight.

QQ. “Notice of Intent (NOI)” is a form submitted by the owner/operator applying for coverage under a general permit. It requires the applicant to submit the information necessary for adequate program implementation, including, at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving stream(s). [40 CFR 128.28(b)(2)(ii)].

RR. “NPDES” means National Pollutant Discharge Elimination System established by EPA.

SS. “NPDES permit” means a permit issued by the Department to a discharger pursuant to regulations adopted by the Board for all point source discharges into surface waters, and shall constitute a final determination of the Board.

TT. “NRCS” means the Natural Resources Conservation Service of the United States Department of Agriculture.

UU. "NRCS-CPS" means the Natural Resources Conservation Service's Conservation Practice Standards as given in the USDA-NRCS, SC Handbook of Conservation Practices.

VV. "Nutrient Management Plan" or "NMP" means a plan that contains the following elements as appropriate to the needs and circumstances of a permitted facility: animal inputs, animal outputs, manure handling, treatment, and storage; dead animal disposal; land application of manure at agronomic rates; site management; record keeping; and other manure utilization options. The plan must include an evaluation of all potential sources of discharges which may include: waste materials; storage areas; transfer, process, and material handling areas; loading and unloading operations; site runoff; and manure and sludge use or disposal areas. The NMP shall be developed in accordance with good engineering practices, SC Regulation 61-43, NRCS Standards, and NRCS's publication entitled, "Comprehensive Nutrient Management Planning/Technical Guidance," dated December 1, 2000. The NMP shall be documented in narrative form, and shall include any necessary plans, specifications, procedures, calculations, drawings, or maps. In general terms, the NMP identifies actions or priorities for owners to follow to meet clearly defined nutrient management goals at the facility. The NMP must contain conservation practices and management activities which, when combined into a system, will help ensure that animal and crop production goals and natural resources and water quality are protected. The NMP is a plan that:

1. Incorporates practices designed to promote use of animal manure and organic by-products as a beneficial resource.
2. Addresses natural resource concerns associated with nutrient and organic by-products and the adverse impacts on water quality; and
3. Combines management practices and conservation practices into a system that, when implemented, will minimize the adverse impacts of animal feeding operations on water quality.

The NMP is usually a part of the overall Animal Facility Management Plan but it can be a separate plan that is referenced in the Animal Facility Management Plan.

WW. "Person" means any individual, public or private corporation, political subdivision, association, partnership, corporation, municipality, State or Federal agency, industry, copartnership, firm, trust, estate, any other legal entity whatsoever, or an agent or employee thereof.

XX. "Point source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

YY. "Point source discharge" means a discharge which is released to the waters of the State by a discernible, confined and discrete conveyance, including but not limited to a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft from which waste is or may be discharged.

ZZ. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt, manure, and industrial and municipal waste discharged into water.

It does not mean:

- a) Sewage from vessels; or
  - b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.
- AAA. “Potable water well” means any well designed and/or constructed to produce potable water for consumption by humans or animals.
- BBB. “Process wastewater” means water directly or indirectly used in the operation of the AFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into direct contact with or is a constituent of any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.
- CCC. “Production Area” means that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal containment area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons or other treatment systems, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.
- DDD. “Professional Engineer” or “Engineer” means a person who, by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering, all as attested by his legal registration as a professional engineer in this State.
- EEE. “Residence” means a permanent inhabited dwelling, any existing church, school, hospital, or any other permanent structure which is routinely occupied by the same person or persons more than twelve hours per day or by the same person or persons under the age of eighteen for more than two hours per day, except those owned by the applicant.
- FFF. “Runoff” means rainwater or other liquid that drains overland on any part of a land surface and runs off of the land surface.
- GGG. “Setback” means a specified distance from waters of the state or potential conduits to waters of the state where manure, litter, and process wastewater may not be land applied. Examples of conduits to surface waters include but are not limited to: Open tile line intake structures, sinkholes, and agricultural well heads.

- HHH. “Severe property damage” means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- III. “Small Concentrated Animal Feeding Operation” or “Small CAFO” means an AFO that is designated as a CAFO and is not a Medium CAFO. Note: The Department may designate any AFO as a CAFO using the criteria given in Section 122.23(c) of SC Regulation 61-9, Water Pollution Control Permits.
- JJJ. “State” means the State of South Carolina.
- KKK. “State Agricultural Permit” means either a permit for an animal facility issued by the Department pursuant to SC Regulation 61-43, “*Standards for the Permitting of Agricultural Animal Facilities*,” or a permit for an animal facility issued by the Department pursuant to the SC Pollution Control Act prior to the promulgation of SC Regulation 61-43 on June 26, 1998.
- LLL. “Storage pond” means a structure used for impounding or storing manure, and contaminated runoff as a component of an agricultural manure management system. Manure is stored for a specified period of time, one year or less, and then the pond is emptied. This definition does not include tanks or other similar vessels.
- MMM. “Swine” means a domesticated animal belonging to the porcine species.
- NNN. “Toxic pollutant” means any pollutant listed as toxic under Section 307(a)(1) of the CWA or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing Section 405(d) of the CWA.
- OOO. “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- PPP. “Vegetated buffer” means a narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching waters of the state.
- QQQ. “Watershed” means a drainage area contributing to a river, lake, or stream.
- RRR. “Waters of the State” means all waters of the United States and ephemeral and intermittent streams within the political boundaries of the State of South Carolina.
- SSS. “Waters of the United States” means:
1. All waters, which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

2. All interstate waters, including interstate “wetlands”;
3. All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  - a) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - b) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - c) Which are used or could be used for industrial purposes by industries in interstate commerce;
4. All impoundments of waters otherwise defined as waters of South Carolina under this definition;
5. Tributaries of waters identified in paragraphs 1 through 4 of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs 1 through 6 of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA, are not waters of South Carolina. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the State (such as disposal areas in wetlands) nor resulted from the impoundment of waters of the State.

TTT. “Wetlands” means lands that have a predominance of hydric soil, are inundated or saturated by water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and, under normal circumstances, do support a prevalence of hydrophytic vegetation. Normal circumstances refer to the soil and hydrologic conditions that are normally present without regard to whether the vegetation has been removed. Wetlands must be identified through the confirmation of the three wetlands criteria: hydric soil, hydrology, and hydrophytic vegetation. All three criteria must be met for an area to be identified as wetlands. Wetlands generally include swamps, marshes, and bogs.